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5 Attorney for Defendant  
ANIL RAO

10 I. MICHAEL ROSS, ) Case No. C-08-01052-MHP  
11 Plaintiff, )  
12 v. )  
13 TOMLAB OPTIMIZATION AB, TOMLAB )  
14 OPTIMIZATION, INC., and ANIL RAO, )  
15 Defendants. )  
16 )

## **1. PRELIMINARY MATTERS**

18 Plaintiff I. MICHAEL ROSS (“Ross”) filed his Report on FRCP 26(f) Conference  
19 on July 15, 2008, and Defendant TOMLAB OPTIMIZATION, INC. (“Tomlab”) filed its FRCP  
20 26(f) Discovery Plan on July 15, 2008. Defendant ANIL RAO (“Rao”) did not receive a Request  
21 for Waiver of Service of Summons from Ross’ attorney until July 24, 2008, and did not file his  
22 Answer until August 8, 2008. On August 6, 2008, and at Rao’s attorney’s request, counsel for  
23 Ross, Tomlab and Rao had a conference call to discuss the parties’ respective discovery plans.  
24 Rao now files his FRCP 26(f) Discovery Plan based upon counsels’ conference call.

## **2. INITIAL DISCLOSURES**

26 Ross and Tomlab stated that they have exchanged Initial Disclosures. Rao agreed  
27 to serve his Initial Disclosures by August 20, 2008, and Ross and Tomlab agreed to serve their  
28 Initial Disclosures on Rao by August 20, 2008.

1           **3. PRESERVATION OF DISCOVERABLE INFORMATION**

2           Rao has no issues with regard to preservation of discoverable information, and no  
3 such issues were raised by any other party during counsels' conference call.

4           **4. DISCOVERY PLAN**

5           A.       Rao does not request any change in the timing, form, or requirement for  
6 disclosures under FRCP 26(a), and will make his disclosures as specified above.

7           B.       Rao does not request that discovery be conducted in phases or be limited  
8 to or focused on particular issues, and suggest that discovery should be completed either 60 or 30  
9 days before trial.

10          C.       Rao does not believe that there are any current issues with regard to  
11 disclosure or discovery of electronically stored information.

12          D.       Ross and Tomlab have stipulated to a Protective Order that has been  
13 entered by the Court. There are no current issues with regard to claims of privilege or protection  
14 of trial-preparation materials.

15          E.       Rao does not request that any changes should be made in the limitations  
16 imposed on discovery.

17          F.       Rao does not request any other orders under FRCP 26(c) or 16(b) and (c).

18           **5. CONCLUSION**

19           Rao respectfully requests that the Court order that discovery can begin  
20 immediately now that Rao has appeared and the parties have met and conferred regarding FRCP  
21 26(f).

22          Dated: August 8, 2008

LAW OFFICE OF DEREK A. ELETICH

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/s/ Derek A. Eletich

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By:

DEREK A. ELETICH

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Attorney for Defendant  
ANIL RAO

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